

### **REMARKS/ARGUMENTS**

In response to the Final Office Action mailed November 3, 2008, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks. In this amendment, Claim 1 is proposed to be amended, no claims have been proposed to be cancelled without prejudice, and no claims have been proposed to be added so that Claims 1-11 and 13-16 remain pending.

Claims 1 and 6-11 were rejected as being unpatentable over U.S. Patent Application No. 2004/0019375 to Casey, II et al. (Casey) in view of either U.S. Patent No. 4,780,344 or 5,234,727, both to Hoberman. This rejection is respectfully traversed.

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d,488,20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.”

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1074). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d1596 (Fed. Cir. 1988).”

Casey discloses a sectional crimped graft with open stent ends. In some embodiments, stents are attached to the end portions. Hoberman discloses various pleated structures. However, none of the references whether taken alone or in combination disclose or suggest the structure claimed in amended claim 1. Specifically, none of the references discloses or suggest diamond shaped anchors formed from a self-expanding metallic material that has only minimal overlap with the main body of the prosthesis in addition to a pleated, non-stent section wherein the pleats are configured to come together as a series of regular folds. In addition, the stents of the claimed invention are attached via sutures to the tubular body portion. Also, there is simply no motivation to combine the references. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant would be grateful for the opportunity to conduct a telephonic or in-person interview if the Examiner believes it would be helpful in disposing of the present case.

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The Reply raises no new issues and places the application in form for allowance, therefore, entry is proper and earnestly solicited.

Respectfully submitted,

/Carl J. Evens/

By \_\_\_\_\_

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